

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

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QAHTAN HASSAN,  
*Plaintiff/Appellant,*

*v.*

RIHANA J.,  
*Defendant/Appellee.*

No. 2 CA-CV 2018-0122  
Filed November 21, 2018

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THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
NOT FOR PUBLICATION  
*See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f).*

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Appeal from the Superior Court in Pima County  
No. C20182840  
The Honorable Patricia A. Green, Judge Pro Tempore

**AFFIRMED**

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Qahtan Hassan, Tucson  
*In Propria Persona*

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MEMORANDUM DECISION

Judge Brearcliffe authored the decision of the Court, in which Presiding Judge Staring and Chief Judge Eckerstrom concurred.

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BREARCLIFFE, Judge:

¶1 Qahtan Hassan appeals from the trial court's ruling, after an evidentiary hearing, dismissing an ex parte injunction against harassment against Rihana J.<sup>1</sup> Rihana J. did not file a responsive brief,<sup>2</sup> but, for the reasons stated below, we affirm.

**Factual and Procedural History**

¶2 We review the trial court's ruling on a petition for an injunction against harassment for an abuse of discretion. *See Wood v. Abril*, 244 Ariz. 436, ¶ 6 (App. 2018); *see also LaFaro v. Cahill*, 203 Ariz. 482, ¶ 10 (App. 2002). An abuse of discretion occurs when a court "commits an error of law in the process of reaching a discretionary conclusion or when the record, viewed in the light most favorable to upholding the trial court's decision, is devoid of competent evidence to support the decision." *Mahar v. Acuna*, 230 Ariz. 530, ¶ 14 (App. 2012) (quotation omitted). We view the evidence in the light most favorable to upholding the trial court's ruling. *Id.* ¶ 2. Absent an error of law or other abuse of discretion, if there is substantial evidence to support the ruling, we are required to affirm. *See State ex rel. Corbin v. Goodrich*, 151 Ariz. 118, 125 (App. 1986). That essentially means that the party appealing an adverse decision has the burden of demonstrating that the trial court erred.

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<sup>1</sup>The respondent is a minor and we therefore in our discretion elect to identify her only by her first name and last initial.

<sup>2</sup>An appellee's failure to file an answering brief may be treated as a confession of error but "[t]his doctrine is discretionary . . . and we are reluctant to reverse based on an implied confession of error when . . . the trial court has correctly applied the law." *Nydam v. Crawford*, 181 Ariz. 101, 101 (App. 1994).

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¶3 On June 7, 2018, Hassan filed a petition for an injunction against harassment against Rihana J. for the benefit of his two minor children, A.A. and Z.A. Rihana J. is Z.A.'s neighbor and classmate. Thereafter, the trial court issued an ex parte injunction against harassment against Rihana J., naming Hassan "and/or" Z.A. as protected persons. The injunction was served on Rihana J., and pursuant to A.R.S. § 12-1809(H), she requested a hearing.

¶4 A contested evidentiary hearing was held on June 28, 2018, at which Hassan and Rihana J. appeared. In support of his appeal, Hassan has not provided this court with a transcript of that hearing. Although Hassan has not provided this court with a transcript, the minute entry indicates he, Z.A., and Rihana J. testified. Following the hearing, the trial court entered an order dismissing the injunction. This appeal followed. We have jurisdiction pursuant to A.R.S. §§ 12-120.21(A)(1) and 12-2101(A)(5)(b).

¶5 On appeal, Hassan recites the evidence he claims he presented to the trial court at the evidentiary hearing, and complains that the court asked too few questions of the defendant and spent too much time asking him and his daughter questions. He is essentially asking this court to reweigh the evidence and reach a different result.<sup>3</sup>

¶6 "It is the appellant's burden to ensure that the record on appeal contains all transcripts or other documents necessary for us to consider the issues raised." *Blair v. Burgener*, 226 Ariz. 213, ¶ 9 (App. 2010). And when, as here, the appealing party fails to provide the transcript of the hearing that resulted in the challenged ruling, we will presume that the record supports the trial court's decision. *Id.*; *see also* Ariz. R. Civ. App. P. 11(c)(1)(A), (B). Moreover, it is the province of the trial court, not this court,

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<sup>3</sup>Hassan also makes a claim that the trial court was biased, racially or otherwise, but provides no substantiation for such a serious charge. Therefore, we will not address this issue. *See City of Tucson v. Clear Channel Outdoor, Inc.*, 218 Ariz. 172, ¶ 88 (App. 2008) (appellate court will not address issues or arguments waived by party's failure to develop them adequately); *see also* Ariz. R. Civ. App. P. 13(a)(7)(A) (stating that the opening brief must include an "[a]ppellant's contentions concerning each issue presented for review, with supporting reasons for each contention, and with citations of legal authorities and appropriate references to the portions of the record on which the appellant relies.").

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to weigh the evidence, assess the credibility of witnesses, and make the necessary findings of fact. *Brown v. U.S. Fid. & Guar. Co.*, 194 Ariz. 85, ¶ 36 (App. 1998). Even when a party provides the court with a sufficient record of the evidence presented to the trial court, this court, as a reviewing court, does not reweigh evidence. *See id.*

¶7 Because we must presume the evidence presented at the hearing supports the trial court's dismissal of the injunction against harassment, and because Hassan has provided this court with no basis for disturbing the ruling, we affirm the June 28, 2018, order dismissing the injunction against harassment.